

**FRENCHTOWN CHARTER TOWNSHIP
OUTDOOR BURNING REGULATION ORDINANCE
Ord. No. 175; Date of Adoption: January 1996**

An Ordinance enacted pursuant to Act 246 of the Public Acts of 1945, as amended, and Act 33 of the Public Acts of 1951, as amended by Act 81, Public Act of 1989 and as may be otherwise amended; to make clear that the Township will allow, subject to its regulations, open burning of combustible materials, despite the passage of Act 451 of the Public Acts of 1994, which prohibits the open burning of grass clippings and leaves in a Township with a population of seven thousand five hundred (7,500) or more unless authorized by local ordinance; and to provide for a resolution to establish conditions for burning, and to generally provide for the public health, safety and general welfare of the persons and property of Frenchtown Charter Township; and to repeal all other ordinances and regulations or parts of ordinances in conflict herewith.

THE CHARTER TOWNSHIP OF FRENCHTOWN HEREBY ORDAINS:

Section 1. Title.

This Ordinance shall be known and referred to as the "Frenchtown Charter Township Outdoor Burning Regulation Ordinance."

Section 2. Definitions.

- A. "Agricultural fire" shall mean the burning of brush and other vegetation for: (1) the clearing of land in preparation for agricultural use, or (2) the clearing of land in preparation for commercial, industrial, and/or residential development.
- B. "Controlled fire for training firefighters" which shall mean fires purposely set for the actual instruction and training of public and industrial firefighting personnel.
- C. "Fire chief" shall mean the Frenchtown Charter Township fire chief or his designee.
- D. "Fire department" shall mean the Frenchtown Charter Township fire department with authorized representative.
- E. "Open burning" shall mean a fire from which the products of combustion are emitted directly into the open air without passing through a stack or chimney or contained in a grill for cooking purposes.

Section 3. Authorization.

The Fire Chief of the Frenchtown Charter Township Fire Department shall have authority over any outdoor burning and proposed outdoor burning in the Township, in accordance with the rules and regulations hereby authorized to be adopted from time to time by Resolution of the Township Board of the Charter Township of Frenchtown with the advice and recommendations of the Fire Chief. The Fire Chief shall be in charge of the issuance of burning permits for outdoor burning in said territorial area. The Fire Chief may designate a member of the Fire Department to carry out the Fire Chief's authority and directives provided for in this Ordinance, for any period of time. The Township Board of the Charter Township of Frenchtown may adopt by Resolution from time to time certain rules and regulations regulating outdoor burning in the Charter Township of Frenchtown, with the Fire Chief's advice and recommendations, and said rules and regulations may include the time, days and months when burning will be permitted and any other regulations relating to the outdoor burning of combustible materials.

Section 4. Outdoor Burning.

No person shall kindle, start or maintain any outdoor fire of any combustible materials, or authorize any such outdoor fire to be kindled, started or maintained, on or in any public or private street, alley or road, or any other public ground or private premises without complying with this Ordinance, any rules and regulations adopted pursuant to this Ordinance, and any other ordinance, law, rule or regulation relating to outdoor burning, and if required by the rules and regulations adopted pursuant to this Ordinance, without first obtaining a burning permit or other proper authorization from the Fire Chief having territorial jurisdiction over the location of the proposed outdoor fire, or his designee. A request for a burning permit shall be submitted to the Fire Chief. The full details of the substance to be burned, quantity, location, time and any other information reasonably required by the Township, shall be provided as part of the request for a burning permit.

Section 5. Process of Permits.

Upon the receipt of a request for a burning permit and the receipt of all the necessary information, the Fire Chief shall review the information, request, and relevant surrounding conditions with respect to said burning request. The permit, if issued, shall be in accordance with this Ordinance and any Resolution adopted pursuant to this Ordinance, and in accordance with any and all other laws, rules, regulations and ordinances relating to outdoor burning.

The Township Fire Chief shall cause a Permit to Burn form to be printed and made available for use, which shall require various information including the substance and quantity of combustible material to be burned, the location where the burning will occur, the time, days and month when the burning will be permitted, and other information as required by this Ordinance or any Resolution adopted pursuant to this Ordinance. Permits to Burn shall be denied, granted or granted with restrictions at the discretion and direction of the Fire Chief, considering the weather and surrounding conditions and any other relevant circumstances and hazards to outdoor burning. Permits to burn may be revoked by the Fire Chief, if he determines that conditions are such that outdoor or open burning cannot be safely accomplished, outdoor or open burning has resulted in noxious or annoying odors and complaints have been received, or if the terms of this Ordinance or the permit issued are being violated.

Amended by Ordinance No. 175-1, November 10, 1998

Section 6. Permitted Burning.

- A. Outdoor Open Burning Permitted Anytime. Certain open fires shall be permitted at anytime with a permit and in accordance with this Ordinance, except when a complete ban on open burning is in place as follows:
- ii. Fires for outdoor cooking or camp fires for recreation purposes where said camp fires do not exceed three (3) feet in diameter or three (3) feet in height and which are located in a pit, grill, trenched area or some other effective containment area (excluding burn barrels) and in which wood, coal or some other normal outdoor clean burning fuel, not including grass clippings or leaves is burned.
 - ii. Agricultural fires.
 - iii. Controlled fires for training firefighters.
 - iv. Fires in a confined containment area where the exclusive burning fuel is confidential papers, such as bank records.

Amended by Ordinance No. 175-1, November 10, 1998

- B. Outdoor Open Burning Permitted Limited Times. The open burning of brush, trees, stumps, branches, hedge clippings and leaves may be allowed from April 15th to April 30th and from October 20th to November 30th of each year after first having secured a permit therefore, from the Fire Chief or his designee. These periods may be extended in any given year by the Fire Chief for a period not to exceed two (2) weeks.
- C. Outdoor Open Burning. All outdoor open burning must take place in excess of thirty (30) feet from any structure and shall be attended and supervised by the applicant or other mature adult until such fire is completely extinguished.
- D. Exceptions. The outdoor burning of waste materials including grass clippings and leaves from farm operations following generally accepted agricultural and management practices, as defined by the Michigan Right to Farm Act, Act 93 of 1981 as amended, in a waste burner or incinerator covered by a mesh cover and inspected and approved by the Fire Chief shall not require a permit to burn.
- E. Permits. An application for permit shall be submitted not less than two (2) business days before the intended open burning, to allow pre-inspection of the proposed bonfire site by the fire department. Permits may be secured during regular business hours and, at a minimum shall include the following information:
- 1. The name and address of the applicant.
 - 2. The location of the land or premises where such open burning is to occur.

3. The type of material to be burned.
4. The time and day contemplated for such open burning.
5. Any other information deemed necessary by the Fire Chief.

No fee shall be charged for any permit issued pursuant to this Ordinance.

Section 7. Prohibited Burning.

- A. No person, partnership, firm, association or corporation shall cause, allow or maintain open burning of garbage, wet leaves, animal carcasses, refuse, trash, rubbish, hazardous material, or like non-combustible material or materials causing toxic fumes or gases at anytime.
- B. No person, partnership, firm, association or corporation shall cause, allow or maintain open burning of automobiles or parts thereof, building, demolition debris, tires, plastics, highly flammable toxic or explosive materials and excess construction material.
- C. No person, partnership, firm, association or corporation shall cause, allow or maintain burning or open burning in a burning barrel or container, except as provided in Section 6(A)(iv) of this Ordinance.

Amended by Ordinance No. 175-1, November 10, 1998

- D. No person, partnership, firm, association or corporation shall cause, allow or maintain burning or open burning in violation of the provisions of the Ordinance.
- E. Any person, partnership, firm, association or corporation who allows a fire to escape or is unable to control such fire or who causes, allows or maintains a fire or open burning in violation of this Ordinance, shall be liable for all expenses incurred by Frenchtown Charter Township in the suppression of such fire which shall be charged at the rate of \$100.00 per hour for each Township owned Fire

Department vehicle which responds to a call per Township policy and procedure. Said rate may be amended from time to time by resolution of the Township Board.

Amended by Ordinance No. 175-1, November 10, 1998.

Section 8. Enforcement.

The provisions of this Ordinance shall be administered and enforced by the Chief of the Frenchtown Charter Township Ordinance Enforcement Officers as appointed by the Township Board of the Charter Township of Frenchtown. The Fire Chief and the Frenchtown Charter

Township Ordinance Enforcement Officers, may process ordinance violations, issue appearance tickets and take any and all other enforcement action that may be permitted by this Ordinance and any other ordinance or law. The Fire Chief and the Frenchtown Charter Township Ordinance Enforcement Officers may direct that any unlawful outdoor fire be extinguished, and if the outdoor fire is not extinguished, or no one is present to extinguish said fire, the outdoor fire may be extinguished by a member of the Frenchtown Charter Township Fire Department or a Frenchtown Charter Township Ordinance Enforcement Officer.

Section 9. Penalties.

Any person or persons, firm or corporation who shall violate any of the provisions of this Ordinance shall, upon conviction thereof before a court of competent jurisdiction, be guilty of a misdemeanor and subject to a fine of not more than Five Hundred Dollars (\$500.00) as permitted by this Ordinance or to imprisonment in the County Jail for a period not to exceed ninety (90) days, or to both such fine and imprisonment. The Court shall order in addition to the other penalties, that the Defendant make full restitution to the Township as specifically permitted by MCL Section 769.1a; MSA Section 28.1073 and otherwise permitted by state law. Each day such violation continues shall be deemed a separate offense. The imposition of sentence shall not exempt the offender from compliance with the requirements of this Ordinance. Further, the Township may take necessary action to abate or enjoin the violation of the Ordinance in a court of competent jurisdiction.

Amended by Ordinance No. 175-1, November 10, 1998

Section 10. Severability.

This Ordinance, and the various parts, sentences, paragraphs, sections, subsections, phrases, and clauses thereof are declared to be severable and if any of them are adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected.

Section 11. Effective Date.

This Ordinance shall become effective immediately upon publication in a newspaper of general circulation in the Charter Township of Frenchtown, Monroe County, Michigan.

FCT.ordinance.175